

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

		Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet)
Applicant's or agent's file reference see form PCT/ISA/220		FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/US2007/006890	International filing date (day/month/year) 20.03.2007	Priority date (day/month/year) 20.03.2006
International Patent Classification (IPC) or both national classification and IPC INV. A61B17/22		
Applicant WILLIAM A. COOK AUSTRALIA PTY. LTD.		

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Date of completion of this opinion see form PCT/ISA/210	Authorized Officer Held, Günter Telephone No. +49 89 2399-2248
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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2007/006890

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of:
 the international application in the language in which it was filed
 a translation of the international application into , which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1 (b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material:
 on paper
 in electronic form
 - c. time of filing/furnishing:
 contained in the international application as filed.
 filed together with the international application in electronic form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or
industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	<u>1-21</u>
Inventive step (IS)	Yes: Claims	
	No: Claims	<u>1-21</u>
Industrial applicability (IA)	Yes: Claims	<u>1-21</u>
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

**WRITTEN OPINION OF THE
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International application No.

PCT/US2007/006890

Re Item V.

1 Reference is made to the following documents:

D1 : US 2002/107526 A1 (GREENBERG ROY K [US] ET AL) 8 August 2002
(2002-08-08)

D2 : US 2005/085846 A1 (CARRISON HAROLD F [US] ET AL) 21 April 2005
(2005-04-21)

2 INDEPENDENT CLAIM 1

2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 discloses (the references in parentheses applying to this document):

A medical grasping device including

- an elongate control member provided with a distal tip and a proximal end portion (Fig. 2), said elongate control member including a grasping member proximal said distal tip (Fig. 2, 70),
- an outer sheath with a passageway within which the elongate control member is slidably held ((Fig. 6, 12),
- a control assembly disposed at a proximal end of said outer sheath (Fig. 2, 24) and said proximal end portion of said elongate control member and operable to urge said grasping member out from and into a distal end of said outer sheath (paragraph 30),
- said grasping member comprising a plurality of pre-formed wire loops which self-deploy from said distal end of said outer sheath (paragraph 33), respective ends of each wire loops being fastened to the elongate control member (Fig. 4),
- at least a portion of each of said wire loops, when deployed, extend in different directions so as to provide a generally round grasping member (Fig. 11).

2.2 Document D2 also discloses the subject-matter defined in claim 1. Thus, claim 1 also lacks novelty in view of D2.

3 DEPENDENT CLAIMS 2-21

Dependent claims 2-21 do not contain any features which, in combination with the

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features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT). The additional features are either anticipated by document D1 or considered as slight constructional changes which come within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen.

Re Item VIII

Certain observations on the international application

1. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.
2. Independent claim 1 is not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).

The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).